



Jail administration in India: A review of Indian jail reform committee

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Abstract

Jail administration forms an important part of public administration and criminal justice system. In India, prisoners inhabiting in different jails are confronting numerous problems. In our prisons the milieu is such that it leads to the progressive poverty of the body, mind and spirit. In many times, different daily state newspapers and NGO is raising over the issue. When politicians are reluctant to this issue but on the other hand civil society and people in administration have shown serious concern over it. Though the first Prison Reform Act in India was passed in the year 1894 the condition of prison and prisoners is not well-equipped what it should be in the present days of human rights. Through this paper the researcher tries to show the importance of prison reform and various institutional and procedural shortcomings of different jail reforms committee and on the basis of these problems in concluding part an effort has been made to provide some suggestions for better prison management in India.

Keywords: prison, reform, prison issues, recommendations

Introduction

When crime was considered a willful wrong against society, prison sentence was harsh, inhuman and vindictive. It was imposed on the offender to take revenge upon him for the crime perpetrated. According to Oxford Universal dictionary, 'crime' is an act punishable by law, as being forbidden by statute or injurious to the public welfare^[1]. Crime is universal in nature as it exists in all the countries in varied form and it is a social reality. The inevitability of crime is due to the fact that society prescribes different rules and regulation and violation of these societal norms by human being is bound to occur. From the dawn of human civilization, mankind has tried to face and solve the problem of crime which is surging skyward.

Crime has been prevalent in India since the time immemorial. Kautilya's 'Arthashastra' which was written in 300 B.C. incorporates a long list of offences and penalties. Hiuen Tsiang also said that in India the usually inflicted punishments were lifelong imprisonment, especially in the case of rebels, mutilation of nose, ears, hand, feet, banishment and ransom, and the money equivalent frequently paid to escape punishment^[2]. The crime committed against the person, property, the institution of marriage and administration of justice were regarded as heinous. During the medieval period, the crimes were divided into three groups, namely offences against God, offences against the state and offences against the private classes^[3].

The word 'prison' and 'Goal' derived from the Latin word meaning respectively 'to seize' and 'a cage'^[4]. The Oxford English Dictionary defines prison as, 'a place properly arranged and equipped for the reception of persons who by

legal process are committed to it for safe custody while awaiting trial or for punishment. Prison is also meant a 'cage' where the offenders can be lodged for their reformation. With the invention of 'open air prison' where prisoners with good record are kept for their complete reformation, hence such places should be termed as 'reformation centre' rather than prison.

All men are born equal. They have the same basic rights. These rights are mainly right to life and liberty. But if any person does not comply with the ethics of the society then that person is deprived of these rights with proper punishment. Prisons are therefore reform institutions to bring the offenders back to the mainstream society.

As a detention centre prisons are old institutions but in case of punishment prisons are comparatively new institutions. In ancient times, prisons were only treated as a detention centre. In India too, the early prisons were only places of detention where an offender was detained until trial and judgment and the execution. The use of prisons as places of detention has continued up to this date. But towards the middle of 16th century imprisonment was a form of punishment for certain types of offenders mostly for Juveniles, street beggars, vagabonds and prostitutes was initiated^[5].

After Independence, prison administration in India had become state subject, which means the state governments had taken over the full responsibilities of administering the prisons in their respective states. The prison is not an autonomous body like a church. It is not an independent system of power, but an instrument of state, shaped by its social milieu and by stage of social, political and economic developments. It reacts to and is acted upon by the society as various groups struggle to advance their interests^[6].

¹ The Oxford Universal Dictionary, Vol.I (London, 1974), p.456.

² Jolly, Tr. Ghosh, op.cit. p.281.

³ Sarkar, J.N, Mughal administration, Calcutta, 1952, pp.116-24.

⁴ Kelley Jonna, When the Gates Shut, Glasgow, University Press, 1967.

⁵ Morris. Norval, The future of imprisonment, University of Chicago press, Chicago, London, 1974, p.57.

⁶ Indira J Singh, 'Indian Prison', 1979.

Objectives of the study

1. To give a general overview of prison administration in India.
2. To illustrate the problems of jail inmates in connection with recommendations of different Prison Reform Committees in India.
3. To suggest measures for better prison reform in India.

Methodology

Methodology plays an important role in any research studies. The present study is qualitative in nature and data are collected from secondary source like books, journal, newspaper report, data from different prison reforms committee, National Crime Record Bureau, Ministry of Home Affairs etc.

Statement of the problem

Administration of prison and reformation of prisoners has been a matter of intense debate and sharp criticism at various public fora. The Supreme Court of India, in recent years has come down heavily on the inhuman and degrading conditions in prisons. In many states, the problems of dilapidated prison structure, overcrowding and congestion, increasing proportion of under trial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of press and social activists. With a growing advocacy for the protection of human rights in the various walks of lives, the plight of prisoners has emerged as a critical issue of public policy^[7]. From the psychological perspective, the major pain of imprisonment is the separation from children and the inevitable disruption of personal contacts with family members; apart from the deprivation of liberty and security. The most critical feeling constantly haunting their mind is about their future. They are extremely worried about where to go after their release from prison. The prisoners are skeptical that due to social stigma and different family norms their family members would not welcome them on their return.

Another important observation is, notwithstanding the provisions in jail manuals that jail authority provide food, clothes and necessary items for the survival of prisoners but most of the jails are overcrowded and lack of basic amenities.

Under this light in post-independent period, Indian government has appointed a couple of jail reforms committee and provided several recommendations. For instance, in 1993 the National Human rights Commission (NHRC) at centre and various organizations at state level were formed to make 'jail reform'. In spite of this, more than a century ago in 1894, the British government enacted the famous 'Indian prison act.' The Prison Act of 1894 has numerous loopholes, for example the act provides for corporal punishment in cases where a prison offence has been committed. Acts like 'willful disobedience' of prison regulations, use of threatening or intimidating language, immoral or indecent behaviour and 'feeling illness' constitute a prison offence under this act. The Act leaves the awarding of such punishment to the discretion

of Jail Superintendent. In addition to this, the Act does not provide much help on how these offences are to be examined^[8]. Hence, it is the urgency of Government of India to make the necessary amendment of this century old prison act and in connection with it several committees and commission was formed for Jail reform in India.

Notwithstanding prisons constitutes a critical area of human rights concern. A person in custody in a civilized society can't be reduced to the status of a non-person and hence the prison system must offer conditions that are compatible with human dignity and conducive to social mainstreaming. Persons in custody should be entitled to all human rights, as the Supreme court has laid down, other than those curtailed by the process of incarceration itself (Viji: 2015).

Significance of the problem

In the age of globalization, where mankind are now in the race of protecting their human rights; Prison reform is the order of the day. People in prisons are still human beings. They still possess all of the rights they possessed before being imprisoned, except for those taken away by virtue of being imprisoned. Even our father of Nation, Mahatma Gandhiji used to call the jail a temple. He was of the view that prisons need to function as reform centres, empowering the inmates with some skills and imparting moral values^[9]. Gandhiji said, 'Hate the crime and not the criminal'. While in jail Gandhi utilized the time very well- in learning new languages, in reading the scriptures, in discussing the matters with the fellow inmates and above all, discussing issues related to moral education.

Due to the rapid formation of Jail Reforms committee the conditions of the prisoners in many states in India is now improving. In 1996, the National Human Rights Commission suggested a prison reform bill. The draft bill was circulated to the states in 1998, a few of which came out with new legislation. Rajasthan is one such state, which incorporated a chapter on the Rights and Duties of the prisoners in its Rajasthan Prisons Act 2001. Likewise in Madhya Pradesh attempts were made to achieve 100% literacy among prisoners in some select prisons.

Review of literature

^[10] Chowdhury (2002) outlines an evolution of reformatory spirit of the prison law. The author expresses his dissatisfaction over the existing prison administration in India and pleaded for a better prison management by suggesting some suitable reforms in the prison administration of India. By analyzing the different prison laws in India, the author critically mentioned that prison laws formulated at the British period had different perspectives and objectives which were not reform oriented or not based on correctional penological thinking. The author categorically stated about the inadequacy of the Prison act of 1894, the prisoners act of 1900 and West Bengal jail code and pleaded for review of it. Therefore, the

⁷ Model prison manual for the superintendence and management of prisons in India, prepared by Bureau of police, Research and development, Ministry of home affairs, Government of India, New Delhi (2003),p.1.

⁸ Report on the National Consolation on Prison Reform, New Delhi 3-4 April, 2010.

⁹ Dr Alaka Sarma, Hate the crime, not the criminal, Assam Tribune, 14 April, 2017.

¹⁰ Nitai Chowdhury, Indian prison laws and correction of prisoners, Deep & Deep, New Delhi, 2002.

author tries to analyze only those prison laws which are at least conducive towards the reformation of the prisoners.

^[11] Doin and Andres (2013) focuses on the role of civil society and NGO's in prison reform. NGO's are the powerful instrument to make prison transparent. NGO can willing to cooperate with the prison system by compliance with the international obligations. In practice, different international human rights non-governmental organization working to protect the rights of the prisoners. For instance, the International Committee of the Red Cross (ICRC), provides assistance to the victims of armed conflicts or internal strife. In prison, the main purpose of the ICRC is 'purely humanitarian' so as to 'preserve the physical and moral integrity of detainees, to prevent any abuse to which they may be subjected and to ensure decent material conditions.

^[12] Fazal (2008) makes an analytical study about the health of the prisoners in India where more than 10 million people are incarcerated worldwide. According to the author this number has increased a million in the post decade and some hazards like mental disorder, trauma and infectious diseases are more common among the prisoner than the common people. The increase rate of suicide inside the prisons in India reflects the actual mental health of the prisoner.

^[13] Kumar (2013) elaborately explains the pathetic conations of prison in India. According to him, the contemporary prison management in India violates Article 21 of fundamental rights. It is due to the fact that prisons have not developed a proper food culture, the food is shockingly bad, majority of prisons do not give breakfast to the offenders. Low quality of food in unhygienic conditions is served for lunch and dinner. The barracks have no scope for ventilation, fans are exhausted and most of the time there is no electricity and water. Worse situation is for the youthful offenders where Reformatory School Act of 1897 is violated, which directed that youthful offenders should be sent to a reformatory school and not a prison.

^[14] Mitra and Pati (2011) in their assessment about the importance of prison reform in India confirms that human rights and the dignity of the individual offenders can best be protected by suitable reform in penal system. For this, it is necessary to adopt a more rational policy and scientific approach to the problem of crime and punishment. For them the primary objective of the punishment is to socialize an offender and inculcate the commonly accepted norms and values of the society so that he can rehabilitate himself as a socially useful person. The most important factor about the prison reform is that it constitutes a critical area for the protection of the human rights of the prisoners. Along with prison reform they have mentioned some important dimensions correctional programme to the offenders. These are: (a) Prison administration and reformation (b) Probation (c) Parole (d) Other alternatives to punishment and (d) After-

care of prisoners.

^[15] Mohanty and Hazary (1990), while analyzing about the Indian jail administration mentioned that early jails were only places of detention where an offender was detained awaiting trial and judgment and the execution of the latter. According to them among the varied sanctions like hanging, mutilation, branding and death; 'the imprisonment was the mild kind of penalty known prominently in ancient Indian penology.' The institution of jail although in the British origin and was introduced in India as a part of the British administration, the Directors of East India company were reluctant to spend money on jails and there was scarcity of adequate food, clothing and medical facilities.

^[16] M.Viji (2015), while writing about prison reform in India, he mentioned about the annual report of National Human rights commission (1993-94) which expressed the appalling conditions in Indian jail. According to the commission, there are problems of overcrowding, lack of sanitation, poor medical facilities, inadequate light and diet in most of the jails of the country. The commission during its visits to different Jails noted with dismay the congestion and maladministration in most of the jails. In the newly constructed jail in Patna, the management was denounced as brutal, uncaring and corrupt. Hence the commission has strongly felt that the prison system in the country is in dire need of reform.

^[17] Owan and Achu (2013) in their studies on Prison reform in Nigeria stated that prisons in Nigeria are 'living hell'. There are shortages of bed spaces only half of the inmates sleep on bed. Disease is widespread; cells are unclean and offer little ventilation resulting in unhealthy and dangerous sanitary conditions. Prison and detention condition remain harsh and life threatening. Prison inmates are allowed outside their cells for recreation or exercise irregularly and many inmates provide their own food. Only those with money or whose relatives brought food regularly had sufficient food. Petty corruption among prisons officials makes it difficult for money provided for food to reach the prisoners and poor inmates often relied on 'hand-out' from others to survive. Those unwholesome treatments have contributed to the death in detention of numerous prisoners ^[18].

^[19] Vibhute (2005), in analyzing the prison reform in India, put emphasizes on the importance of 'open prison as a peno-correctional institutions. Open peno-correctional institution, for the first time, was discussed in the Twelfth Penal and Penitentiary Congress held in 1950 at the Hague, deliberating upon the possibility of replacing the traditional prisons by open prisons, designed some broad premises for setting up open penal institutions. In India, Uttar Pradesh is the first state who first ever experienced 'open prison' system to the inmates

¹⁵ Mohanty and Hazary, Indian prison system, Ashish Publishing House, New Delhi, 1990.

¹⁶ Dr. Viji,m, Human rights women prisoners and prison reforms in India- A Study, AMIERJ, Vol-IV, Issue-II, 2015.

¹⁷ Achu, Josephat Owan and Cletus Ekok. The impact of prison reforms on the welfare of the inmates: A case study of Afokang prison, Calabar, Cross River state, Nigeria, Global journal of Human social science, Vol-13, Issue-3, 2013, USA.

¹⁸ Annual Prison Report, Nigeria, 1984.

¹⁹ Khushal I. Vibhute, Open Peno-correctional Intuitions in India, a review of the fifty-five years, Experience and Expectations, Max Planck institute for Foreign and International Criminal Law, Freiburg, 2015.

¹¹ Andres, Rodriguez and Doin. Working paper series on Prison Reform; Civil society and prison :the 'invisible bars' challenge, UNODC, 2013.

¹² Seena Fazal, The health of prisoners, New Century publications, New Delhi, 2008.

¹³ Subodh Kumar, Semi-private prison management in India, Journal of Centre for reforms, development and justice, Vol.1, No.3, 2013.

¹⁴ Dr. Somnath Mitra and ajit Kumar Pati, Crime and correctional administration, MSW paper-12, Netaji Subhas Open University, 2011.

in 1949. In Lucknow, a small number of convicts were allowed to work outside the jail farm, both day and night, without watch and ward but under the overall supervision of the Jail Superintendent. It was totally based on the philosophy of 'trust' and 'freedom' with minimum restrictions. However, there is certain eligibility to the prisoner before going to the open prison system; these are - good conduct, good physical and mental health, emotional stability etc. Regarding the utility of the open prison system the author remarks that the agricultural activities by the inmates due to the open prison system provides opportunities to them to engage themselves in fruitful pursuits during the term of their sentence but also make them learn skills that enable them to follow a vocation on release. Moreover, the gainful work at the open jails not only keep their inmates mentally occupied and thereby desist them from turning out the devil workshop but also give them a short of self-confidence and self-esteem. It also goes a long way in developing a responsive and respectable attitude in the inmates towards society.

Historical development of Jail reform committee in India: Pre-independence and post-independence Period

The root of jail reform committee in India was first developed under East India Company rule. During British rule in India, a number of jails were built in North-Western state, Madras and Bombay in the late 18th and early 19th century (Devakar, 1985). The British Prison authorities made strenuous efforts to improve the conditions of Indian prison and prisoners. They introduced radical changes in the then existing prison system keeping in view the sentiments of the indigenous people. The prison administrators who were mostly from British officials, classified the prisoners into two heads namely, violent and non-violent prisoners. The Prison Enquiry Committee appointed by the Government of India in 1836 recommended for the abolition of the practice of prisoners working on roads. Adequate steps were also taken to eradicate corruption among the prisons staff. An official called Inspector General of Prisoners was appointed for the first time in 1855, who was the Chief Administrator of Prison in India. His main function was to maintain discipline among the prisoners and the prison authorities^[20]. However, the modern prison system in India was originated by TB Macaulay in 1835. A committee popularly known as Prison Discipline Committee, 1836 was appointed, which submitted its report on 1838.

The committee reported in 1838 to Lord Auckland the then Governor General and noted with great disapprobation, 'the rampant corruption in the subordinate establishment, the laxity of discipline and the system of employing prisoners on extramural labour on public roads, without exception the worst method of treatment that has been provided under the British government for this class of persons.' The committee was not itself free from the enduring influence of these vices. Its views and observations unmistakably reflect the attitude of the English rulers towards India. The committee recommended for increased rigorousness of treatment while rejecting all humanitarian needs and reforms for the prisoners. The Committee in its recommendations deliberately rejected all

reforming influences such as moral and religious teaching, education or any system of regards for good conduct and suggested the building of central prisons where the convicts might be engaged not on manufactures which it condemned but in some dull, monotonous, wearisome and uninteresting work in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working harder for a time. As per the recommendations of the Macaulay Committee between (1836-1838), Central Prisons were constructed Agra in 1846, Bareilly and Allahabad in 1848, Lahore in 1852, at Madras in 1857, at Bombay in 1864, at Banares in 1864 and at Lucknow in 1867.

It is pertinent to mention that during British Raj in India the conditions of prisoners were harsher than animal and prisoners were treated with hatred. There was no civil code to give punishment. The meaning of punishment itself was to crush the prisoner. Jailors were cruel persons.

The Second jail reform committee named Commission of Inquiry into Jail Management and Discipline was appointed by Lord Dalhousie in 1864. Though the commission made similar recommendation with like the committee of 1836 but in some places it provided some specific recommendation. For instance the second Jail reform committee put emphasized on accommodation of prisoners, improvement in diet, clothing, bedding and medical care. Along with this, the Second Inquiry committee was appointed to minimize the high death rates in prison due to the insanitary conditions of illness and disease. The committee concluded that the sickness and mortality might be considered as mainly attributable to (i) overcrowding, (ii) bad ventilation, (iii) bad conservancy (iv) bad drainage, (v) insufficient clothing, (vi) sleeping on the ground, (vii) deficiency of the personal cleanliness, (viii) bad water, (ix) extraction of labour from unfit persons and (x) insufficient medical inspection. The committee also raised the problems of juvenile delinquents, female prisoners and made valuable suggestion for the improvement of the prison conditions.

The positive impact of the Second inquiry committee of jail reform is that with the implementation of the recommendations of the committee, the death rate in prisons was considerably reduced. Prison discipline was codified with immediate effect and violators were provided solitary confinement, reduction in diet, whipping and hard labour. Along with it, the Government of India in 1870 passed a Prison act to amend the prison law in the country. The prison law of 1870 laid down that there should be a superintendent, medical officer, a jailor and as such subordinate officers as the local government thinks necessary^[21].

In 1877, the third all India Jail committee was constituted. The committee reviewed the jail management and principles and aims of jail administration. In 1888, Lord Dufferin appointed the Fourth Jail Commission. The committee through its thorough investigation on different jails opined that uniformity could not be achieved without enactment of single prisons act. The commission recommended for the separation of undertrial prisoners and the classification of prisoners into casuals and Habituals.

²⁰ Kaustubh Rote, Prison reform and social change in India, Assignment of law and social change, 2015.

²¹ The Prisons act, 1870; Section 7.

Reformatory schools act, 1837

In 1837, the Reformatory Schools Act was passed which is considered as a landmark in the History of Prison reform movement in India. Under the act, the courts were directed to send a 'youthful offender' to a reformatory school instead of prison.

Prisons act, 1894

The present jail management and administration in India operates on the basis of the Prison Act of 1894. The act along with other various prisons Acts and regulations led to considerable material progress. This act still had not make any substantial changes but the process of review of the prison problems in India continued even after the enactment of this act. In the report of the Indian Jail Committee 1919-20, for the first time in the history of prisons, 'reformation and rehabilitation' of offenders were identified as the objectives of the prison administrator. Different committees and commissions which were appointed by both central and state government after the Indian independence have emphasized humanization of the conditions in the prisons.

Another major lacuna of reducing the possibility of uniform implementation of a prison policy at the national level is that the Government of India Act 1935 transferred the subject of jails from the central list to the control of provincial governments. State governments thus have their own rules for the day to day administration of the prisons, maintenance of prisoners and prescribing procedures.

Indian jail committee, 1919-20

The prison problems in India were extensively examined by the Indian Jail Committee in 1919-20. This committee produced a report which is indeed a landmark in the prison reforms of the country. The main recommendations of the committee are:

- a. As far as possible, every prison should be under the superintendence of a trained expert who should devote his whole time and attention to the subject and the number of the prisoners who can properly be entrusted to the care of a single superintendent must not exceed a certain maximum;
- b. The prison staff, from the jailor down to the warder should be recruited with care properly trained and paid a salary sufficient to secure and retain faithful service;
- c. Prisoners in jail shall be so classified and separated that the younger or less experienced shall not be contaminated or rendered worse by communication and association with the older or more hardened offender;
- d. The prisoners, while in prison, should be brought under such humanizing and improving influence as will not only deter them from committing further crimes but also result in a real reformation of their character;
- e. To help the prisoners to secure an honest living after their release;
- f. Measures for revision of every sentence of long imprisonment and grant of increased remissions for good behaviours should be taken to shorten imprisonment;
- g. The prison establishment should be divided into two branches, to be separately recruited; (1) Executive, consisting of jailors and deputy jailors and, (2) clerical,

consisting of clerks, accountants and storekeepers.

- h. The award of corporal punishment for prison offences, should be restricted to mutiny and serious assaults on public servants or visitors.
- i. To provide prison incentives such as extended remission, facilities to write two or more letters and get visits from relatives or friends.
- j. In the selection of prison labour, the main object should be to reform the criminal and to produce goods similar in quality to those obtainable in the open market.
- k. Arrangements for education up to the elementary stage and restricted to prisoners not over the age of 25 were recommended in all Central and district jails. Every prison should contain a library of books suitable for issue to prisoners and endeavour should be made to provide religious and moral instructions for all prisoners avoiding interference with genuine or caste prejudices of prisoners.
- l. The commitment to prison of children and young prisoners, whether after conviction or while on remand, was contrary to public policy. Remand homes and children's courts should be provided for such children and the procedure in these courts should be as informal and as elastic as possible^[22].

The committee gave a great impetus to the prison reform in the country. The report directly or indirectly affected many of historic prison reform legislation like Borstal Act, the Children's Act, Probations Acts, etc.

Despite the innovative recommendations, the act set back more than one reason. Firstly, the Government of India Act of 1919 introduced diarchical system and left the subject of prisons to the provincial governments without any effective supervision and control of the central government. Secondly, the years of 1921-22 were the period of Non Co-operation Movement in India. The political turmoil of that period also retard in the prison reform of India. The leaders of freedom movement who were in the jail were very well known the poor conditions of the prison and they tried to make awareness about the stinking prison conditions.

Post-independence Jail reform committees in India

After independence, different committees and commission were constituted to prison reform in India. In 1949, Pakwasa committee recommended for utilizing the prisoners as labour for road work without any intensive supervision over them. The system of payment to inmates for their labour was introduced from this time. The committee called for the reduction of prison sentence to the inmates for their good conduct. The core objective of the committee was to keep the society safe from criminal and to reform the inmates.

In 1951, the government of India took a landmark initiative to invite Dr. Walter.C. Reckless an expert of United Nations on correctional work, to undertake a study on prison administration and for policy reforms. Dr. Reckless prepared a report named 'Jail administration in India'. His report made a considerable suggestion for transforming jails into reformation centers.

²²Report of the Indian Jail committee, 1919-20.

The eight conference of the inspector of general of prisons, 1952

The Eight Conference of the Inspector of General of Prison held at Bombay in 1952 gave a push to the prisoners' rights movement in the country. The conference stressed the need to revamp the state jail manuals. The year of 1955 is significant in the sense that during this year whipping of prisoners was abolished and in international front the United Nations held its first meeting at Geneva on the prevention of crime and treatment of offenders at Geneva. The Congress approved the United Nations standard Minimum Rules for the treatment of prisoners and urged the Member Nations to modify their national practices accordingly [23].

All India jail manual committee, 1957

The Government of India had appointed the All India Jail Manual Committee in 1957 to prepare a model prison manual to all the states. The committee submitted its report in 1960 (Kaur: 2015). The report recommended for formulating a uniform policy and latest methods relating to jail administration, probation, after-care, juvenile, remand homes, certified and reformatory school, borstals, suppression of immoral traffic etc. The sad fact about the committee is that it has remained unchanged and unrevised even after 69 years of Indian independence. Ironically, in the state like Bihar still has the same Jail Manual prepared by the British Civilian J.A. Hubback in 1927 [24]. Such attitude was criticized by the 'Supreme Court' (in the well known case of Sunil Batra V. Delhi Administration.)

In 1957, the Eighth conference of the Inspector General of Prisons also supported the recommendations of All India Jail Manula Committee. The conference also called for necessary reform to the Prison act of 1894.

Central bureau of correctional services, 1961

The Central Bureau of correctional services was established in 1961 which latter renamed as the National Institute of Social Defence in 1975 was another important development regarding the jail reform in India. It was the first central agency that particularly dealt with the research, training, documentation etc. in matter of social defence.

Mulla Committee, 1980

Under the chairmanship of justice A.N.Mulla, the government of India formed a committee on Jail Reform in 1980. The basic objective of the committee was to make a thorough review of the existing rules, regulations and laws deals with the prison administration. The Mulla committee recommended for the formation of an All India Service called the Indian Prisons and Correctional Service for the recruitment of prison officials. The Committee took some effective decisions to the prisoners like after care, rehabilitation and probation. The Mulla committee submitted its report in 1983. The committee

suggested to remove the diarchy of prison administration at Union and State level. The committee specially recommended a total ban on the heinous practice of clubbing together juvenile offenders with the hardened criminals in prisons. Some other major recommendations of Mulla committee are:

1. The conditions of prisons should be improved by making adequate arrangements for food, clothing, sanitation, ventilation etc.
2. The prison staff should be properly trained and organized into different cadres. It advised to constitute an All India Service called the Indian Prisons & Correctional service for recruitment of prison officials.
3. After-care, rehabilitation and probation should constitute an integral part of prison service.
4. The media and public men should be allowed to visit prisons and allied correctional institutions periodically so that public may have first-hand information about conditions inside prisons and be willing to co-operate with prison officials in rehabilitation work.
5. Lodging of under trails in jails should be reduced and they should be kept separated from the convicted prisoners.
6. Government should provide adequate resources and funds to prison reform.

Meanwhile, a comprehensive legislation has been enacted for the security and protection care of delinquent juveniles. The committee also suggested segregation of mentally disturbed prisoners to mental asylums.

All India committee on jail reforms, 1980-83

The report of the All India Committee on Jail Reforms 1980-83 too reflects the reformatory aims of prison administration in the following ways:

'Custody being the basic function of prisons, appropriate security arrangements shall be made in accordance with the need for graded custody in different types of institutions. The management of prisons shall be characterized by firm and positive discipline, with due regard, however, to maintenance of human rights of prisoners. The state recognizes that a prisoner loses his right to liberty but maintains his [25] residuary rights. It shall be the endeavour of the state to protect these residuary rights of prisoners (AICJR, 1984, VOL-I: 25).

The monotony of the prison diet and the quality of food served are issues that prisoners have always complained about. In the restricted environment of prisons, where the prisoners can't get food of the choice and liking, diet assumes special importance. Diet of the prisoners is regulated on the basis of different scales prescribed in the state jail manuals. According to the All India Jail Reforms Committee Report (1980-83), this has led to serious protests and demonstrations by the prisoner community. The Committee therefore laid down strict measures to ensure the preparation of good quality and nutritious food for the prisoners. Food was to be of 'medium

²³ The United Nations Standard Minimum Rules for the Treatment of Prisoners are the first to be propounded by the international community touching upon the core of the penal policy all over the world. These rules lay down a comprehensive framework for a fair, just and humane treatment of offenders subjected to incarceration.

²⁴ M.Viji, Human rights women prisoners and prison reforms in India- A study, AMIERJ, Vol-IV, Issue-II, 2015.

²⁵ Note : The Residuary rights includes the freedom of speech and expression, the freedom to become a member of an association, the right to acquire, hold and dispose of property, the right to life and personal liberty and the right to vote.

quality', purchased from government distribution centres rather than through individual contractors. The committee suggested for separate kitchen to be allocated to the batches of 200 prisoners. Thus, the All India Jail Reform Committee (1980-83) had positive as well as disciplinary ramifications for life within prison. The committee also recommended that the convicted prisoners should be given 'raw diet' and the required fuel to cook their own food.

The apathy of the All India Jail reform committee is that most of the concrete recommendations provided by the committee remained unimplemented. In the case of Hiralal Vs state of Bihar (AIR, 1977 SC 2236), the Supreme Court of India observed, 'Ministers, now or before, who were no strangers to prison torments, have done so little to reform conditions in prisons.'

Krishna Iyer Committee, 1987

The Government of India appointed Krishna Iyer Committee in 1987 to undertake a study on the situation of women prisoners in India. The committee recommended for the recruitment of more women in the police force keeping in view of their special role in tackling child and women offender issue.

In 2000, the Ministry of Home Affairs, Government of India appointed a committee for the formulation of a pragmatic Model Prison Manual to improve the Indian prison management and administration according to the International standard [26].

The government of India has shown serious concern over the growing threats to the security and discipline in prison posing a challenge as how to make prison a safe place. Consequently the Ministry of Home Affairs, Government of India has constituted a All India Group on Prison Administration-Security and discipline on 28th July, 1986 under the chairmanship of Shri R.K. Kapoor who submitted their report on 29th July, 1987.

In pursuance to the recommendations made by the All India Committee on Jails Reforms, the Government of India identified Bureau of Police Research & Development (BPR&D) as a nodal agency at the national level in the field of correctional administration on November 16, 1995 with specific charter of duties as given under [27].

1. Analysis and study of prison statistics and problems of general nature affecting prison administration.
2. Assimilation and dissemination of relevant information to the states in the field of correctional administration.
3. Coordination of research studies conducted by Regional Institute of Correctional Administration (RICAs) and other Academic/Research Institutes in Correctional administration and to frame guidelines for conducting research studies/surveys in consultation with the state governments.
4. To review training programmes keeping in view the changing social conditions, introduction of the new

scientific techniques and other related aspects in the field of correction administration.

5. To prepare uniform Training Modules, including courses, syllabi, curriculum etc. for providing training at various levels to the prison staff in the field of correctional administration.
6. Publication of reports, newsletters, bulletins and preparation of Audio-visual aids etc. in the field of correctional administration.
7. To set up an advisory committee to guide the work relating to correctional administration.

Some landmark state jail reform committees

In the history of Jail Reform in India, the period between 1937 to 1947 was important in the sense that during that period people of some states like West Bengal, Tamil Nadu, Maharashtra etc. were aware about the necessity of prison reform. Some of the committee appointed during the period was:

1. The Mysore Committee on Prison Reforms, 1940-41;
2. The U.P. Jail Reform Committee, 1946; and
3. The Bombay Jail Reforms Committee, 1946-48;
4. East Punjab Jail Reform Committee, 1948-49;
5. The Madras Jail Reform Committee, 1950-51;
6. The Jail Reform Committee of Orissa, 1952-55;
7. The Jail Reform Committee of Travancore and Cochin, 1953-55;
8. The U.P. Jail Industries Inquiry Committee, 1955-56; and
9. The Maharashtra Jail Industries Reorganizations Committee, 1958-59.

It is significant to mention that in the late 1930's U.P. government appointed a 'Jail Enquiry Committee' and under its recommendations the 'First Jail Training School' in India was established at Lucknow in 1940 for training jail officers and wardens [28].

In pursuance to the directions given by the Hon'ble Supreme Court in a case of Ramamurthy Vs state of Karnataka, 1996, the Government of India has constituted *All India Model Prison Manual Committee* in November, 2000 under the chairmanship of Director General of BPR&D to prepare a *Model Prison Manual* for the Superintendence and Management of Prison in India in order to maintain uniformity in the working of prisons throughout the country. This manual has been circulated to all States/UTs for adoption after the acceptance by government of India in January, 2004. It would not be out of place to mention here that the draft national policy on prisons as proposed by the All India Committee on Jail reforms which is enumerated in the proceeding account was given due consideration by this committee while preparing the Model Prison Manual under reference [29].

Government of India has constituted a high powered committee under the chairmanship of Director General, BPR&D for drafting a national policy paper on *Prison Reforms and correctional administration*

On 1st December, 2005 with following terms of references:

²⁶ Reformation and rehabilitation of women prisoners...available at shodhganga.inflibnet.ac.in/.../12_...

²⁷ National policy on prison reforms and correctional administration, prepared by Bureau of Police Research & development, Ministry of Home Affairs Government of India, New Delhi, 2007.

²⁸ Zubair Ahmed. Jail reforms in India: A study of Indian Jail reform committee, IJMER, Vol- 1, Issue-3, 2016.

²⁹ Ibid.

1. To review the present status of the legal position and suggest amendments if required on the prison related laws enacted by the centre and states.
2. To review the recommendations made by the various Committees & cull out tangible recommendations which are required to be implemented by the centre and the states.
3. To review the status of implementation of these recommendations with reference to the following:
 - (a) Physical conditions of prisons
 1. Overcrowding and Congestion.
 2. Hygienic conditions.
 3. Other basic amenities.
 - (b) Conditions of prisoners
 1. Under trails
 2. Convicts
 3. Detenues
 - (c) Correctional Administration
 1. Programme for welfare of convicts/under trails
 2. Rehabilitation after release
 3. Involvement of community.
 - (d) Prison Personnel
 1. Overall development of Prison Personnel
 2. (ii) Training
 - (e) Any other issues related to modernization of prisons and correctional administration.

Modern prison reform system in India

The highest court of India, the Supreme Court in its number of judgments has adopted some cabalistic principles:

1. A person in prison does not become a non-person.
2. A person in prison is entitled to all basic rights within the limitations of imprisonment. There is no justification in aggravating the suffering already inherent in the process of incarnation.
3. Prisoners are sent to prison, not for punishment but as reformation.

Though the constitution of India does not provide any specific provisions relating to the right of prisoners or prison reform but certain fundamental rights enumerated by the constitution of India are applicable to protect the rights of the prisoners. These are: Article-14 (Right to equality), Article-19 (Right to Freedom of speech), Article-21 (Right to life and personal liberty), Article-22 (Protection against arrest and Detention).

Suggestions

Prisoners are the human being. As a human being they have the right to enjoy all rights on condition as enumerated by two international covenants on human rights: International covenant on Economic, social and cultural rights, 1966 and the Civil and political rights of 1966. It is true that prisoners must not always look after through soft corner tendency; they are imprisoned as because they have committed different grave crimes and make endanger to life of innocent people.

But, if prison is treated as a reformatory centre then prison must avoid its harsh policy and should adopt some corrective measures to bring necessary socio-psychological reformation to the lives of the prisoners. Hence, some suggestions are provided by looking into the pros and cons of different Jail reform Acts that have already implemented in India.

- After making an in depth analysis of the functions of numerous Jail Reforms Committee in India, it is realized that Jails should rapidly taken up reformatory schemes to provide better quality services (food, clothing, water, medicine, electricity) to the prisoners and it will eke out the job of rehabilitation.
- Overcrowding in the jail is a burning problem of the day in the most of the jails in India. So, central government should take necessary action in this regard. If the number of under trails could be reduced then this problem would be decreased to some extent.
- It is very urgent to amend the legal procedures to prevent long detention of the under trials.
- While adopting the correctional measures by the jails emphasis should be paid on after-care of the prisoners.
- It is a welcome move of the criminal law in India in recent time that the period of detention of under trials will be counted towards the sentence of imprisonment.
- Different research studies reveals that a large number of under trail prisoners are detained in jails for long periods as they are not able to afford fees for lawyers to defend them. So, it is the responsibility of the government to give free legal aid to the poor. If government is keen to extend this facility to the large number of the prisoners then it will shorten the period of under trail prisoners and in some cases there is the possibility of the acquittal also.
- Prison manual should be revised and updated at the end each year.
- Law officer (part time/full time) should be appointed in the prison.
- Prison personnel should be sent to the outside India for special Training at frequent interval.
- To appoint a groups of visitors to monitor and observe the prison conditions monthly and report it to the higher authority.
- To publish monthly or quarterly magazine by each district jail about their progress, problems and future prospect on jail administration.
- To treat prisoners with humanity and fairness and to prepare them for their return to their community.

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